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## **MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION**

### **APRIL 19, 2006**

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Chair John Bauer called the meeting to order at 7:30 p.m. Present at the meeting were Commissioners Matthew Hopkins, Lloyd Kaufman, Lenny Levy, and Danny Winborne, City Attorney Cathy Borten, Assistant City Manager Fred Felton, Planning and Code Administration Director Greg Ossont, Community Planning Director Trudy Schwarz, Facilities Director Pete Geiling, Planners Jacqueline Marsh and Patricia Patula, Planning Intern Allen Meyer, and Recording Secretary Myriam Gonzalez.

#### **I. ELECTION OF OFFICERS**

Commissioner Winborne moved, seconded by Commissioner Levy, to nominate John Bauer as Chair of the Planning Commission.

Vote: 5-0

Commissioner Winborne moved, seconded by Commissioner Hopkins, to nominate Lenny Levy as Vice Chair.

Vote: 5-0

#### **II. APPROVAL OF MINUTES**

April 5, 2006, Planning Commission Meeting

Vice Chair Levy moved, seconded by Commissioner Kaufman, to APPROVE the Minutes of the April 5, 2006, Planning Commission Meeting, as submitted this evening.

Vote: 5-0

#### **III. RECORD PLAT**

R-1185 -- Hidden Creek - Plat 23  
Lots 107-145 and Parcel F/Block M

Vice Chair Levy moved, seconded by Commissioner Winborne, to APPROVE Record Plat R-1185.

Vote: 5-0

#### **IV. EXTENSION OF PLAN APPROVAL**

AFP-05-013 -- Kentlands Recreation Center  
485 Tchiffely Square Road  
Second-Story Addition and Porch Enclosure  
EXTENSION OF APPROVAL

MXD Zone

Community Planning Director Schwarz noted this plan was approved a year ago and, in accordance with Zoning Ordinance § 24-173, is before the Commission for an extension.

Vice Chair Levy moved, seconded by Commissioner Winborne, to grant AFP-05-013 - Kentlands Recreation Center, EXTENSION OF APPROVAL.

Vote: 5-0

#### V. SITE PLANS

AFP-06-015 -- Pollo Campero at Lakeforest Mall C-2 Zone  
701 Russell Avenue  
Façade Changes  
AMENDMENT TO FINAL PLAN REVIEW

Chair Bauer asked if the Commission would agree to waive the Rules of Procedure's deadline for submittal of applications. In response to Commissioner Hopkins, Planning and Code Administration Director Ossont explained the circumstances relating to the waiver request, adding that staff had no objections.

Commissioner Kaufman moved, seconded by Commissioner Winborne, to grant a waiver of the Planning Commission Rules of Procedure's submittal deadline regulation for AFP-06-015 - Pollo Campero at Lakeforest Mall.

Vote: 5-0

Planner Patula located the site, noted a proposed separate entrance adjacent to the existing food court, and introduced the applicant.

*Representing the applicant R.W. Murray Company, Paul Elgin, Focus Architecture & Design, thanked the Commission for granting the waiver of the submittal deadline. He presented photographs of the site and colored elevations of the proposed façade changes and discussed the proposed materials and architectural features, noting they are in accordance with their prototype. Mr. Elgin also noted the proposal would not affect the existing landscaping.*

In response to comments of Chair Bauer and Commissioner Winborne, Mr. Elgin agreed to improve the existing landscaped bed as part of the proposed façade revision and to move the existing bike rack in close proximity to its current location. City Attorney Borten pointed out the need for the landlord's approval of the landscape changes.

*Lakeforest Mall Director of Operations Mark Hewit, representing the landlord, stated there were no objections to relocating the bike rack or to the improvements to the planting bed.*

There was no testimony from the public.

Ms. Patula voiced staff's recommendation for approval, as the plan complies with Zoning Ordinance §§ 24-170 and 24-171, with a condition that she listed. She suggested language for a second condition regarding the landscaping and bike rack, as discussed above.

Vice Chair Levy moved, seconded by Commissioner Winborne, to grant AFP-06-015 - Pollo Campero at Lakeforest Mall, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-170 and 24-171, with the following conditions:

1. Applicant is to submit a sign package for approval by staff;  
and
2. Applicant is to work with the landlord regarding landscape improvements and relocation of the bike rack.

Vote: 5-0

AFP-05-014 -- 116 James Street  
(Bucheimer Residence)  
2-Car Garage

R-90 Zone

AMENDMENT TO FINAL PLAN REVIEW

Planner Patula introduced this application for a two-car garage in the rear of the property, noting it is before the Commission because the garage is a little larger than allowed by right. She located the site, adding that this property is in a proposed historic district (Observatory Heights).

*Applicant Michael Bucheimer, 116 James Street*, presented a colored plan and proposed elevations, and discussed the materials and size/height of the proposed garage. He added that he could install skylights in the back of the roof instead of the proposed dormers due to his neighbor's concern with privacy. In response to questions of Vice Chair Levy and Commissioner Kaufman, Mr. Bucheimer explained the reasons for the proposed dimensions of the garage.

There was no testimony from the public.

Planner Patula stated the plan complies with the approval criteria in §§ 24-163, 24-170, and 24-171 of the Zoning Ordinance. She answered questions of Commissioner Hopkins and noted that the skylights are not reflected on the plan. The Commission concurred to approve the plan, subject to the applicant's compliance with the condition listed in the following motion:

Vice Chair Levy moved, seconded by Commissioner Winborne, to grant AFP-05-014 - 116 James Street (Bucheimer Residence), AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-163, 24-170 and 24-171, with the following condition:

1. Applicant is to submit a revised plan showing the removal of dormers and the addition of skylights on the rear of the garage for staff approval.

Vote: 5-0

AFP-05-045 -- Lakefront at Washingtonian Center  
9841 Washingtonian Boulevard  
Sign Package

MXD Zone

AMENDMENT TO FINAL PLAN REVIEW

Commissioner Hopkins recused himself from this review noting a conflict of interest. Planner Marsh located the site and introduced the applicant's representative.

*Timothy McShea, Fountain Square Properties*, noted that the signage was not part of the final plan approval of the office building, as the tenants were unknown at that time. He presented the building elevations and discussed colors and location of the proposed signage. In response to Commissioner Kaufman, Ms. Marsh indicated that distance would minimize the impact of a

sign that would indirectly face the condominiums that are in the vicinity. Community Planning Director Schwarz added that the proposed signage is Code compliant.

There was no testimony from the public.

In response to Chair Bauer, Ms. Marsh stated this sign package is comprehensive and consistent with existing development. She voiced staff's recommendation for approval, as the plan complies with Zoning Ordinance §§ 24-170, 24-172, and 24-212. The Commission agreed with staff's recommendation and moved as follows:

Commissioner Winborne moved, seconded by Vice Chair Levy, to grant AFP-05-045 - Lakefront at Washingtonian Center, finding it in compliance with Zoning Ordinance §§ 24-170, 24-172, and 24-212.

Vote: 4-0

AFP-06-008 -- Rosenthal Auto C-2 Zone  
625 North Frederick Avenue  
Carwash  
AMENDMENT TO FINAL PLAN REVIEW

Planner Patula located the site and noted the proposed carwash is for in-house purposes only.

*Rosenthal Auto Dealerships General Manager/Vice President David Horsford* presented the plan, noting it proposes to relocate the carwash from an interior location to the exterior, behind the Mazda dealership. The plan also proposes the enclosure of the canopied area next to the Mazda dealership for detailing of automobiles. Mr. Horsford indicated that some parking would be relocated within the site resulting in three additional spaces. He answered questions of Commissioners Winborne and Levy regarding the proposed enclosure and the water system.

Ms. Patula noted the plan meets the approval criteria in Zoning Ordinance §§ 24-170 and 24-171, subject to compliance conditions which she listed. The Commission voiced no concerns and moved as follows:

Commissioner Kaufman moved, seconded by Vice Chair Levy, to grant AFP-06-008 - Rosenthal Auto, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-170 and 24-171, with the following conditions:

1. Applicant is to submit details of the recovery system tanks to be approved by Planning and Code Administration;
2. Applicant is to acquire a permit from Washington Suburban Sanitary Commission before the issuance of a building permit; and
3. Applicant is to provide additional confirmation of the turning radius from the drive aisle into the car wash to be approved by the Department of Public Works, Park Maintenance, and Engineering (DPWPM&E).

Vote: 5-0

AFP-06-014 -- Market Square  
Market Street East/West  
Public Plaza to Replace Ice Skating Rink  
AMENDMENT TO FINAL PLAN REVIEW

MXD Zone

Chair Bauer asked if the Commission would agree to waive the Rules of Procedure's deadline for submittal of applications. He noted the purpose of the deadline is to allow staff sufficient time to review plans. Planning and Code Administration Director Ossont stated that staff had no objections to the applicant's waiver request.

Commissioner Kaufman moved, seconded by Vice Chair Levy, to grant a waiver of the Planning Commission Rules of Procedure's submittal deadline for AFP-06-014 - Market Square.

Vote: 5-0

Mr. Ossont provided background information associated with this project, noting the subject design was developed based on several public discussions with guidance by Slater and Associates and was the subject of six Market Square Advisory Committee meetings. He reported that the issue of public art did not reach a consensus, so it was decided to submit this issue to the Art in Public Places Committee for final determination on location and funding.

*Architect for the applicant, Slater Associates Vice-President Norton Klaus, presented the proposed plan, noting its design was developed by consensus with the community. He also presented a bird's eye perspective of the design and discussed paved and green areas, bench types/clusters, flagpole location, plant materials, concrete pavers, walls/seating spaces and lighting types. In response to Commissioner Winborne, Mr. Klaus noted that space for a pavilion and water fountain is included in the plan to make them available if desired in the future.*

Chair Bauer recommended that the quality of the types of seating be consistent with the rest of the plaza, as well as using landscaping near the front and back of the office building to create transitional areas. Vice Chair Levy suggested using benches with movable backs, chess tables, a creative color design for the walking paths, engaging public artwork, and peonies for flowers, as well as providing an activity area for children (e.g., hopscotch). Commissioner Kaufman recommended decorative trash receptacles. Commissioner Hopkins additionally suggested the use of pavers that allow groundwater recharge, and more detailing of pavers, edging, color contrast, etc.

There was no testimony from the public.

Mr. Ossont discussed the conditions suggested by staff, noting the plan meets the City Code criteria for approval, subject to compliance with the listed conditions.

Chair Bauer spoke in favor of the proposal and suggested that staff establish an ongoing charge to the Market Square Advisory Committee to revisit this project periodically to re-energize the area. Commissioner Kaufman supported Chair Bauer's comment adding that the art could be rotated seasonally. Chair Bauer also suggested integrating bike racks/trash receptacles in the design in a creative fashion.

Vice Chair Levy moved, seconded by Commissioner Winborne, to grant AFP-06-014 - Market Square, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-170 and 24-172, with the following conditions:

1. Final storm water inlet and drainage plan is to be approved by DPWPM&E;
2. Stone pier and wall section details are to be reviewed and approved by DPWPM&E;
3. Light fixtures and photometric analysis is to be approved by DPWPM&E;
4. Final site amenity details including benches, tree grates, trash receptacles and bike racks, are to be approved by staff;
5. Final cobblestone edges, pavers detail and paving sections are to be approved by DPWPM&E; and
6. Final landscaping detail and shrub, flower, and tree selection are to be approved by staff.

Vote: 5-0

#### VI. RECOMMENDATION TO MAYOR AND COUNCIL

##### X-182 -- Crown Village Farm, LLC, Catherine Stinson, and Clyde Stinson

Request to annex approximately 182.81725 acres of land adjacent to the present corporate limits, known as the Crown Property, located at the southwest side of Fields Road, bounded by Sam Eig Highway to the northwest and Omega Drive to the southeast. The application requests a reclassification of the subject property from the current R-60/TDR (Medium Density Residential with Transfer of Development Rights), R-200 (Low Density Residential), and R-200/TDR Zones in the County to the MXD (Mixed Use Development) Zone in the City of Gaithersburg, Maryland.

Planning and Code Administration Director Ossont noted this annexation request was the subject of a joint public hearing on February 6, 2006, and listed the main issues raised at the hearing and those discussed at two subsequent joint work sessions on February 27 and March 13, 2006. He indicated the twice-revised sketch plan would include a maximum dwelling unit cap of 2,250 units and 320,000 square feet of commercial use in a transit-oriented traditional neighborhood design, as well as a 33-acre site for a high school and stream valley buffer.

Mr. Ossont reported the Montgomery County Planning Board and the County Council Planning, Housing, and Economic Development (PHED) Committee have recommended approval of the annexation. He indicated the application is tentatively scheduled for final action on the County Council's April 24, 2006, Agenda, adding that the Mayor and City Council's public hearing record is still open.

Chair Bauer noted the double asterisk notation on the sketch plan referring to accessory apartments should be removed, since there is no definition for accessory apartment in the City Zoning Ordinance. It was noted that the City Code's urban cottage definition would be the equivalent, which would be counted in the unit count. Mr. Ossont addressed Chair Bauer's inquiry about unit yields and provided a status of historic preservation recommendations (Exhibit #60), noting that pertinent language has been included in the Staff Analysis for incorporation in the terms of the annexation of agreement. Noting that unit counts are not

within the scope of this review, Commissioner Kaufman emphasized the importance of a good unit mix.

The consensus of the Commission was in favor of annexation, as it would give the City the opportunity to ensure the best possible design and enhance the quality of life and resources within the City. Following discussion of the terms of the annexation agreement as listed in the Staff Analysis, the Commission concurred on language to revise some of those items and moved as follows:

Vice Chair Levy moved, seconded by Commissioner Winborne, to recommend to the Mayor and City Council APPROVAL of Annexation Petition X-182, with an MXD zoning designation and the following condition:

1. Applicant must revise the schematic development plan to eliminate the double asterisk notation to remove the allowance for accessory apartments.

The Commission further recommended the following be included as terms of the annexation agreement between the applicant and the City:

1. Applicant should provide an adequate site for the construction of a public high school. Adequacy shall be confirmed by Montgomery County Public Schools;
2. Subdivision and development should be in accordance with the provisions of the MXD, Mixed Use Development Zone, of the City of Gaithersburg Zoning Ordinance;
3. Land use density should be limited to 2,250 dwelling units;
4. Commercial development should be limited to 320,000 square feet, of which up to 20,000 square feet may be located in the area of the transit stop;
5. Applicant should be responsible for construction and dedication of all on-site roadway improvements;
6. Applicant should be responsible for all off-site roadway improvements, including pedestrian element improvements, required by the City, based on a comprehensive traffic analysis;
7. Applicant should provide a staging plan to address the timing of a traffic mitigation plan and off-site roadway improvements;
8. Applicant must implement a shuttle bus program from the community to the Shady Grove Metro Station. Applicant must provide a funding mechanism to ensure that the shuttle bus will remain in operation for a period of 12 years, the commencement of which shall be determined at schematic development plan review;

9. Applicant should dedicate a 5-acre park to the City for use as passive open space;
10. Applicant should submit detailed design guidelines for City approval at the time of schematic development plan review;
11. Applicant should dedicate the necessary right-of-way for the Corridor Cities Transitway (CCT) on the property and construct 250 public parking spaces for the CCT;
12. Applicant should make a significant financial contribution for off-site regional recreation amenities;
13. Applicant should preserve a historic setting and restore the existing farmhouse and log tenant house and further evaluate the remaining outbuildings;
14. Applicant should comply with all applicable environmental laws and regulations, including storm water management and forest conservation; and
15. Applicant should provide 12.5 percent of the residential dwelling units in accordance with an affordable housing program to be developed by the City of Gaithersburg.

Vote: 5-0

## VII. FROM THE COMMISSION

### Commissioner Kaufman

1. Congratulated John Bauer and Lenny Levy for their election as Chair and Vice Chair of the Planning Commission. Commissioners Winborne and Hopkins echoed his comment, and Commissioners Levy and Bauer thanked them.
2. Reported that some of the restaurants in the Kentlands Market Square area are using outside loudspeakers to announce specific orders by number, and the announcements are excessively loud and annoying to people sitting in the public areas or dining outside.

### Vice Chair Levy

1. Cautioned against granting waivers of the Commission's Rules of Procedure without just cause. Chair Bauer noted that the basis for the Rules' submittal deadline is to provide staff with sufficient time to review applications adequately, adding that such requests are at staff's discretion. Vice Chair Levy emphasized, however, that staff should not feel compelled to expedite applications for Commission review.
2. Favored allowing smaller parking spaces for storage parking at automobile dealerships.



VIII. FROM STAFF

Community Planning Director Schwarz

Announced two joint work sessions scheduled for April 24 and May 30.

IX. ADJOURNMENT

There being no further business to come before this session, the meeting was duly adjourned at 10:30 p.m.

Respectfully submitted,

M. Gonzalez  
Recording Secretary